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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,565	10/02/2003	Douglas B. Guthrie	SEH 026 P2	9308
34232	7590	11/08/2005		
MATTHEW R. JENKINS, ESQ. 2310 FAR HILLS BUILDING DAYTON, OH 45419			EXAMINER LORENCE, RICHARD M	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,565

Applicant(s)

GUTHRIE ET AL.

Examiner

Richard M. Lorence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/27/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1-4,6,7,14,16,17,19,21,24,26,27,30-39,43,48,51,52,54,56,60,61,64-68,71-86,90,92,94,97-100,102,103,106,107,110-119 and 121.

Continuation of Disposition of Claims: Claims rejected are 1-4,6,7,14,16,17,19,21,24,26,27,30-39,43,48,51,52,54,56,60,61,64-68,71-86,90,92,94,97-100,102,103,106,107,110-119 and 121.

DETAILED ACTION

This action is in response to the amendment filed on August 30, 2005.

The specification and claims 1-4, 6, 7, 19, 32-35, 38, 39, 43, 54, 60, 68, 71, 73, 81, 82, 85-86, 94, 100, 106 and 117 have been amended, and claims 5, 12, 13, 15, 22, 69 and 70 have been cancelled. Claims 1-4, 6, 7, 14, 16, 17, 19, 21, 24, 26, 27, 30-39, 43, 48, 51, 52, 54, 56, 60, 61, 64-68, 71-86, 90, 92, 94, 97-100, 102, 103, 106, 107, 110-119 and 121 are currently pending.

Inventorship

Applicant's remarks appearing on page 25 of the response filed on August 30, 2005 concerning the petition filed on February 27, 2004 under 37 CFR 1.48(a) to correct the inventorship by adding Dietmar Koester as an inventor have been noted. Mr. Koester has not been added as an inventor, and the inventorship remains as set forth in the declaration filed on October 2, 2003.

Claim Objections

Claim 84 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. The limitations of claim 84 are recited in the last two lines of claim 81 as amended.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 64-66, 73-77, 79, 80, 110-113, 116, 118, 119 and 121 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 64-66 each recite the limitation "said plurality of second channels". There is insufficient antecedent basis for this limitation in the claim. It is suggested that these claims be amended so as to depend from claim 36 rather than claim 34.

Claim 73 recites the limitations "said first edge" and "said second edge" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claims 110-113 each recite the limitation "said plurality of second channels". There is insufficient antecedent basis for this limitation in the claim. It is suggested that these claims be amended so as to depend from either claim 83, 92 or 103 rather than claim 81.

In claim 116 it is unclear how the support ring can comprise more than one of the recited elements. In line 2 it is believed that "or more" should be deleted.

Claim 118 recites the limitations "said second channel" and "said first channel". There is insufficient antecedent basis for these limitations in the claim.

Claim 119 recites the limitation "said second channel" in line 1. There is insufficient antecedent basis for this limitation in the claim.

The scope of claim 121 cannot be determined since it depends from the cancelled claim 120.

Claim 121 recites the limitation "said second pluralities of channels". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 14, 24, 30-37, 43, 48, 64-68, 71-84, 90, 92, 94, 103, 110-119 and 121 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Hirayanagi et al. '367. Note Figures 7A and 7B which show the friction facing 10 with first channels 11b and second channels 11a.

Claims 1, 3, 6, 7, 16, 17, 19, 21, 26, 27, 30-39, 43, 48, 51, 52, 54, 56, 60, 61, 64-68, 73, 75-78, 81-86, 90, 92, 97-100, 102, 103, 106, 107, 110-116 and 121 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Payvar '953. Note Figures 1 and 7-9 which show the friction facing 11 with first channel 17 and second channel 19.

Response to Arguments

Applicant's arguments filed August 30, 2005 have been fully considered but they are not persuasive.

With respect to the rejections of claims 64-66, 73-77, 79, 80, 110-113, 116, 118, 119 and 121 under 35 U.S.C. 112, second paragraph, it is not seen the applicant has done anything to address the indefiniteness issues regarding these claims raised in the previous Office action.

Regarding the rejections under 35 U.S.C. 102(b), applicant's amendment is believed to overcome rejections based upon the Staub, Jr. '978 and Kayama '628 patents set forth in the prior Office action. However the claims even as amended do not appear to distinguish over either Hirayanagi et al. '367 or Payvar '953.

In the paragraph bridging pages 27 and 28 of the response filed on August 30, Applicant argues that "...each of the cited references fail to teach of Applicants' independent claims as now presented, all of which require a plurality of first channels or areas, at least one of which has a second channel in fluid communication therewith for permitting fluid to flow from a first area to a second area. The first and second channels have depths that are different."

This is not found to be persuasive because: (1) Hirayanagi et al. shows the friction facing 10 with first channels 11b in a central area which extend completely through the facing and communicate with second channels 11b having a depth which is less than the depth of the first channels in a radially inner area; and (2) Payvar shows the first channels 17 in a radially inner area having a depth "d" which communicate with second channels 19 in an area radially outward of the first channels and having a depth "e" which is less than the depth "d".

Applicant further argues in the first full paragraph on page 28 that some of the dependent claims recite that the first channel has a depth that extends one hundred percent of the thickness of the friction material, while the second channel extends less than one hundred percent. The examiner points out that this is clearly shown in Figure 7B of Hirayanagi et al. Applicant also urges that the step or smaller area through which fluid may flow over a connector which connects two walls that cooperate with the connector to define the second channel recited in certain of the dependent claims is not shown in the cited art. The Examiner believed that the connector is shown for example in Figure 8 of Payvar below the channel 19.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on June 27, 2005 has been considered by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (571) 272-7094. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard M. Lorence
Primary Examiner
Art Unit 3681

Lorence/rml